

6-8-15

MISSISSIPPI WORKERS' COMPENSATION COMMISSION**MWCC NO. 13 04871-M-5446****MARY A. LEE****CLAIMANT****VS.****BON WORTH, INC.****EMPLOYER****AND****TWIN CITY FIRE INSURANCE COMPANY****CARRIER****APPEARING FOR THE CLAIMANT:**

Mr. Ned "Tres" McDonald, III, Attorney at Law

APPEARING FOR THE EMPLOYER-CARRIER:

Mr. Andrew Faggert, Attorney at Law

Ms. Amy Topik, Attorney at Law

ORDER OF THE ADMINISTRATIVE JUDGE

Claimant had an admittedly-compensable injury to her left knee on May 24, 2013. After conservative measures failed, Claimant's treating surgeon recommended a total knee replacement. The Employer-Carrier denied authorization and raised the issue of the causal connection between the recommended surgery and Claimant's work-related accident. Claimant filed a motion to compel medical treatment, and the Employer-Carrier filed a response. A hearing on the merits was held on March 12, 2015, at the Lee County Justice Center in Tupelo, Mississippi.

STIPULATION

The parties stipulated and agreed that Claimant had a work-related accident on May 24, 2013, and injured her left knee.



ISSUE

The sole issue for consideration is whether the need for a total left knee replacement is causally related to the May 24, 2013, work-related accident.

EXHIBITS

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| Exhibit 1 | June 3, 2013, MRI from The Imaging Center |
| Exhibit 2 | October 1, 2013, MRI from Medical Imaging |
| Exhibit 3 | Medical records of North Mississippi Sports Medicine & Orthopaedic Clinic, PLLC |
| Exhibit 4 | Medical records of Tri State Orthopaedics, LLC (Dr. Apurva Dalal) |
| Exhibit 5 | Medical Records of North East Orthopaedics, P.A. (Dr. Bryan Fagan) |
| Exhibit 6 | Claimant's motion for medical treatment |
| Exhibit 7 | Employer-Carrier's responses to Claimant's motion |

EVIDENCE

Claimant is 68 years of age and resides in Lee County, Mississippi. She began working for the Employer in March 2003. In early 2013, Claimant had an unrelated left knee injury. In March 2013, Claimant underwent an arthroscopic surgery on her left knee to repair the medial meniscus. After being off work for one week, Claimant returned to the Employer and worked her regular duties. Claimant explained that she constantly stood and walked while working.

Claimant worked her regular duties and her regular hours continuously without incident until May 24, 2013. On that date, Claimant went to the stock room, which had no electricity. She walked into some pallets stacked on the floor. She fell face down when both legs hit the pallets. Claimant had abrasions on her legs from the impact. She was treated at Worklink and was referred to the

surgeon who had performed her prior surgery, Dr. Fagan.

Claimant testified that her surgeon recommended a total knee replacement. She was also seen for a second opinion by Dr. Southworth. Claimant asked Dr. Southworth if a partial replacement would work, but she was not opposed to a total knee replacement.

Claimant testified that since the accident in May 2013, she has been unable to work or handle her housework. She cannot stand more than 40 minutes at a time. Claimant said that prior to her accident, she was able to stand and walk 7 hours a day at work with no problems, even after her March 2013 knee surgery.

MEDICAL EVIDENCE

Dr. Bryan Fagan, orthopedic surgeon, began treating Claimant on February 24, 2011, over two years prior to the work accident. At that time, Claimant had problems with her right knee after climbing up and down a ladder. Dr. Fagan performed a partial medial meniscectomy on Claimant's right knee on March 2, 2011. Dr. Fagan followed Claimant's progress until May 2011. He did not see Claimant again until March 21, 2013. At that time, Claimant said she had a twisting injury to her left knee while attempting to hang a picture at home.

Dr. Fagan examined Claimant's left knee and wrote that she had "persistent medial sided pain . . . with significant swelling and instability about her knee and also some clicking." He diagnosed Claimant with a horizontal oblique tear of the posterior horn of the medical meniscus in her left knee. On March 27, 2013, Claimant underwent a left knee arthroscopy to repair the medial meniscus tear.

On April 9, 2013, Claimant told Dr. Fagan that she had fallen after the surgery and may have aggravated her left knee problem. On physical examination, Dr. Fagan found a "small effusion," but

Claimant was "neurovascularly intact." On April 30, 2013, Claimant was still having significant pain mostly on the medial aspect of her knee. Dr. Fagan advised Claimant to continue with therapy for two months. He wrote, "If she is no better we may need to consider repeat arthroscopy."

On June 6, 2013 (38 days after the work-related accident), Claimant returned to Dr. Fagan saying she was having "significant problems with her left knee." She told Dr. Fagan about tripping over pallets at work. Dr. Fagan said the MRI showed "significant edema in her medial femoral condyle and possible osteonecrosis." He found post-surgical changes in Claimant's medial meniscus and a possible strain of her medial collateral ligament. Dr. Fagan wrote the following:

This injury at work somewhat clouds this picture. It is difficult to tell if she has this edema secondary to her fall or if this is avascular necrosis after . . . knee arthroscopy. The meniscus tear is likely post surgical changes. She may have a strain of her ACL and also a strain of her medial ligament which we are going to treat with a hinged brace that she already has at home. I think we are going to give this some time.

Claimant returned on July 9, 2013, saying she had improved. Dr. Fagan advised her to progress back into regular activities, and he sent her for physical therapy. On August 6, 2013, Claimant was still having knee problems. Dr. Fagan injected a visco supplementation. However, the injection did not help. On October 10, 2013, Dr. Fagan read Claimant's MRI as showing edema and a lesion in the medial femoral condyle, which he felt was consistent with avascular necrosis.

Dr. Fagan recommended a total knee arthroplasty. He wrote, "This is a workman's comp case therefore we will await their approval before proceeding with surgery." However, on January 8, 2013, Dr. Fagan wrote the following answers to questions from the adjuster:

I do not feel that the avascular (*sic*) necrosis is related to the work injury that Ms. Lee sustained on 5/24/13. She had undergone previous knee arthroscopy and partial meniscectomy for an injury that she sustained at home. I think the avascular necrosis is likely related to post arthroscopic changes and not the injury that she sustained at work on 5/24/2013.

Dr. Stephen Southworth, orthopedic surgeon with North Mississippi Sports Medicine & Orthopaedic Clinic, evaluated Claimant's left knee on November 5, 2013. He did not have any of Claimant's prior medical records. Claimant had symptoms of pain, swelling, instability, and limited range of motion in her left knee. Dr. Southworth wrote, "The onset of the symptoms occurred after an injury. The injury is work related." He diagnosed Claimant with osteoarthritis in both knees with an MFC defect in the left knee. In answer to a questionnaire by the Employer-Carrier, Dr. Southworth wrote that Claimant did not list a prior knee surgery and only said that she had advanced arthritis in her left knee. Dr. Southworth wrote that it would not change his opinion regarding causation; however, he also answered "no" to the question of whether the May 24, 2013, work-related accident was causally related to her need for a total knee replacement.

Dr. Apurva Dalal, orthopedic surgeon with Orthopaedics & Physical Therapy, evaluated Claimant on July 3, 2014, at the request of the Commission. He reviewed all of Claimant's medical records, including the pre- and post-injury MRI's; Dr. Fagan's records; and Dr. Southworth's records. As to the March 8, 2013, MRI (two months prior to her work accident), Claimant had a horizontal oblique tear of the posterior horn of the medial meniscus with no ligament tear or sprain; moderate sized joint effusion; and small cysts along the popliteus tendon and on the anterior horn of the medial meniscus.

Dr. Dalal diagnosed Claimant with a "large osteochondral lesion in the medial compartment with severe loss of joint space now down to 1 mm." Dr. Dalal agreed that Claimant needed a total knee replacement. He wrote that Claimant "sustained bone loss in the medial femoral condyle following" the work accident in May 2013. Dr. Dalal further explained, "This is a new finding after the second fall . . ."

The June 3, 2013, MRI was entered as Exhibit 1. The MRI showed that Claimant had a medial meniscus tear; a partial ACL tear; a partial MCL tear; likely osteochondral fracture along the articular surface of the medial femoral condyle but in the absence of trauma osteonecrosis can have this appearance; joint effusion.

The October 1, 2013, MRI showed advanced tricompartmental degenerative disease approaching severe in the medial knee compartment; osteochondral lesion medial femoral condyle; medial meniscal tear; prominent signal irregularity throughout the anterior cruciate ligament with appearance of sprain and probably mild partial tear; moderate joint effusion.

There was no MRI entered into evidence before the May 24, 2013, work-related accident. The only specific reference to the pre-injury MRI was in Dr. Dalal's notes. The only point of reference is the surgical notes from March 27, 2013, when Dr. Fagan operated on Claimant's left knee, which was prior to the May 2013 accident. The operating notes are as follows:

The patella did sit slightly laterally, but the cartilage was well preserved.

We did find a flap tear in the posterior horn of the medial meniscus that split all the way over to the root of the medial meniscus.

It was again probed and found to be stable. There was some mild softening of the articular cartilage of the tibial plateau. The femoral condyle cartilage was pristine.

At this time, the scope was advanced into the femoral notch. Here we found intact cruciate ligaments under appropriate tension.

The lateral meniscus was probed in its entirety and found to be stable and intact. The articular cartilage was pristine.

DECISION

The parties stipulated and agreed that Claimant had an accident at work on May 24, 2013, and injured her left knee. Three surgeons agreed that Claimant needs a total knee replacement. The sole issue for consideration is whether the need for the knee replacement is causally related to the May 2013 work-related accident.

Claimant's treating physician both before and after the accident was Dr. Fagan. He performed a non-related surgery to Claimant's left knee just two months prior to her work accident. During the surgery, Dr. Fagan found that the patella cartilage was "well preserved"; the articular cartilage of the tibial plateau was mildly soft; the femoral condyle cartilage was "pristine"; her cruciate ligaments were intact; the lateral meniscus was stable and intact; and the articular cartilage was "pristine."

Comparing that to the findings of the post-accident MRI, there were many critical changes: a medial meniscus tear; a partial ACL tear; a partial MCL tear; a "likely osteochondral fracture along the articular surface of the medial femoral condyle" even though it could be osteonecrosis "*in the absence of trauma*"; and joint effusion.¹ None of these things were present during the surgery just two months prior to her work-related accident. Additionally, there was a trauma - Claimant tripped over two pallets and fell.

Dr. Fagan specifically stated that he did not know if the problems she had in June 2013 were related to her prior surgery or was avascular necrosis. Dr. Fagan said that the necrosis would not be work related; however, it is unclear that necrosis is the correct diagnosis. Comparing the surgical notes with the post-accident MRI showed that traumatic changes had taken place. Moreover, the

¹ Emphasis added.

MRI radiologist thought it "likely" that Claimant had a fracture.

Dr. Southworth evaluated Claimant once and diagnosed her with osteoarthritis in both knees and an MFC defect in the left knee. First, he said the injury was work related because the onset of symptoms occurred post-accident. Then, he changed and wrote "no" to the question from the Employer-Carrier as to whether the need for a total knee replacement was causally related to Claimant's work accident. It is noteworthy that Dr. Southworth did not have any of Claimant's prior medical records and did not know about her prior knee surgery. He performed a physical examination and did not notice an arthroscopic scar.

Dr. Dalal, the physician appointed by the Commission, reviewed all of the medical records, including the pre- and post-injury MRI's, the records of Dr. Fagan, and the records of Dr. Southworth. Dr. Dalal diagnosed Claimant with a large osteochondral lesion in the medial compartment. He causally related Claimant's work accident to the need for surgery.

Dr. Fagan diagnosed Claimant with osteonecrosis and said it was not related. He was the only physician to diagnose Claimant with necrosis. Dr. Southworth diagnosed Claimant with an MFC defect. Dr. Dalal diagnosed Claimant with a large osteochondral lesion, and he causally related Claimant's need for surgery to her work accident. All three agreed that Claimant needs the total knee replacement.

Claimant credibly testified that she recovered from her unrelated March 2013 surgery and returned to work with no problems. This is corroborated by the medical records. Dr. Fagan noted that Claimant was "neurovascularly intact" on April 9, 2013, with only a small effusion. On April 30, 2013, just three weeks before her work accident, Claimant was having pain mostly on the medial aspect of her knee. More importantly, Claimant was working full time during this time period. She

was standing and walking seven hours per day, five days per week. She testified that her debilitating symptoms did not occur until after the May 24, 2013, work accident. That was when Claimant was taken off work, and she has not returned.

Considering the evidence as a whole, including but not limited to the medical evidence and Claimant's testimony, I find that Claimant has proven that the need for a left total knee replacement is causally related to her May 24, 2013, work accident. Therefore, the Employer-Carrier is hereby ordered to pay for and provide the recommended surgery in accordance with the Mississippi Workers' Compensation Law and the Medical Fee Schedule.

JUN 08 2015

SO ORDERED



Tammy G. Harthcock

TAMMY G. HARTHCOCK
ADMINISTRATIVE JUDGE

Joyce Wells

Joyce Wells, Commission Secretary
MWCC NO. 13 04871-M-5446